

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF OREGON
PORTLAND DIVISION

ENRIQUE R. BAUTISTA,
Petitioner,

08-CV-546-PK

ORDER

v.

MARK NOOTH,
Respondent.

BROWN, Judge.

Magistrate Judge Paul Papak issued Findings and Recommendation (#35) on March 15, 2011, in which he recommended the Court deny the Petition (#1) for Writ of Habeas Corpus of Petitioner Enrique R. Bautista, dismiss this matter with prejudice, and deny a Certificate of Appealability. Petitioner filed timely Objections to the Findings and Recommendation.

On May 31, 2011, the Court entered an Order in which it concluded Petitioner's Objections did not provide a basis to

modify the Findings and Recommendation, adopted the Findings and Recommendation, and dismissed this matter with prejudice.

In its May 31, 2011, Order, the Court inadvertently failed to set out specifically that it also denied a Certificate of Appealability for the reasons set out by the Magistrate Judge in the Findings and Recommendation. Accordingly, in this Order, the Court denies Petitioner a Certificate of Appealability because he has not made a substantial showing of the denial of a constitutional right pursuant to 28 U.S.C. § 2253(c)(2), and, therefore, this matter is not appropriate for appellate review.

CONCLUSION

The Court **DENIES** Petitioner a Certificate of Appealability.

IT IS SO ORDERED.

DATED this 12th day of July, 2011.

/s/ Anna J. Brown

ANNA J. BROWN
United States District Judge